

Serial No. 10/068,314

Reply to Office Action of March 24, 2005

REMARKS

Applicant notes with appreciation the withdrawal of the previous rejections over Gandorfer et al. and Shi et al. Currently, claims 1-7, 9, 10, 13-18, 20 and 21 stand rejected under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. §103(a) over Trese et al. (Ophthalmology, Volume 105, Issue 9, 1 September 1998, pages 1617-1620). Lastly, claims 8, 19 and 25-28 stand rejected under 35 U.S.C. §103(a) over Trese et al. as detailed above further in view of Trese et al. (American Academy of Ophthalmology, ISSN 1607-1610). Independent claim 1 recites delivering a dose of plasmin of less than 0.4 units and "incubating the plasmin in the vitreous body [of a subject human eye] for a predetermined amount of time to create a liquefied vitreous." Thus, the present invention as a process is indicated when it is necessary to liquefy the vitreous from the eye and not merely to detach a congealed vitreous adhered to the retina. As the instant specification makes clear at page 1, line 8 – page 2, line 3, the application of mechanical forces to remove adhered vitreous is associated with a number of complications involved in a vitrectomy. The inventive process of independent claim 1 is indicated to reduce the vitreous viscosity to a liquid state in advance of, or potentially to preclude vitrectomy.

In contrast to the invention of claim 1, in Trese et al. (Ophthalmology) macular hole treatment in pediatric patients is detailed. A macular hole is a small break in the macula located in the center of the eye's light sensitive retinal tissue. The macula provides for the sharp central vision associated with reading, driving and discerning fine detail. As such, a macular hole is associated with blurred and distorted central vision. As noted in Trese et al. (Ophthalmology) at the second paragraph under the Discussion section, plasmin enzyme is known to loosen or actually separate the vitreoretinal junction. The paragraph concludes with "plasmin enzyme facilitated surgical cleavage of the vitreoretinal interface."

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As Trese et al. (Ophthalmology) teaches loosening or separation of the vitreoretinal junction but fails to teach the recited claim element of actually liquefying the vitreous, Applicant submits that Trese et al. (Ophthalmology) fails to anticipate the claimed invention.

Applicant submits that the claimed invention is nonobvious over Trese et al. (Ophthalmology) since the separation of the vitreous from the dissimilar retinal tissue is a less effective vitreal treatment, as compared to the claimed invention. The liquefaction of the vitreous represents not only a separation but a dissolution of the gelled vitreous. As there is neither a teaching nor contemplation that plasmin injected into a subject eye according to Trese et al. is able to induce vitreous liquefaction, it is submitted that this higher level of performance as recited in claim 1 is not obvious in light of Trese et al. (Ophthalmology). Reconsideration and withdrawal of the rejection as to independent claim 1 and those that depend therefrom under 35 U.S.C. §102(b) or in the alternative under 35 U.S.C. §103(a) over Trese et al. (Ophthalmology) is solicited.

Independent claim 14 includes the same limitations as does claim 1 with respect to the creation of a liquefied vitreous. As such, the above comments with respect to the allowability of claim 1 are submitted to be equally as applicable to independent claim 14 and those claims that depend therefrom. In light of these remarks, reconsideration and allowance of claim 14 and the claims that depend therefrom under 35 U.S.C. §102(b) or in the alternative under 35 U.S.C. §103(a) over Trese et al. (Ophthalmology) is solicited.

With regard to dependent claims 8, 19 and 25-28 that stand rejected under 35 U.S.C. §103(a) over Trese et al. (Ophthalmology) and further in view of Trese et al. (American Academy of Ophthalmology, ISSN 1607-1610), Applicant submits that the prior art combination

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fails to provide a teaching or motivation for vitreous liquefaction and instead only would indicate to one of skill in the art that vitreoretinal separation is possible.

Applicant submits that these claims are allowable on the basis of dependency from an allowable base claim. Additionally, Applicant incorporates by reference the above remarks with regard to Trese et al. (Ophthalmology).

Trese et al. (American Academy of Ophthalmology) is submitted to likewise be deficient in lacking a teaching or motivation for the creation of a liquefied vitreous. Rather, Trese et al. (American Academy of Ophthalmology) also pertains to macular holes and only teaches the creation of a traumatic posterior vitreous separation (see article heading, page 1609, left column, first paragraph of discussion; page 1610, left column, first full paragraph and right column, last paragraph). While both references admittedly teach the creation of a vitreoretinal separation, also detailed as a posterior vitreous detachment (PVD), both references alone or in combination fail to contemplate or teach a higher level of effect, namely vitreous liquefaction as compared to vitreoretinal separation.

As claim limitations not found in the prior art are entitled to patentable weight, reconsideration and allowance of claims 8, 19 and 25-28 under 35 U.S.C. §103(a) over Trese et al. (Ophthalmology) in view of Trese et al. (American Academy of Ophthalmology, ISSN 1607-1610) is respectfully requested.

Summary


Entry of this amendment is requested. With the entry of this amendment claims 1-10, 13-21 and 24-28 are pending in the application. Reconsideration and allowance of the pending

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claims is respectfully requested. In the event that the Examiner finds to the contrary, he is respectfully requested to contact the undersigned attorney to resolve any remaining issues.

Respectfully submitted,



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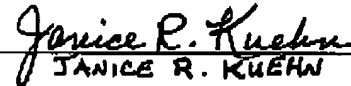
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CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being sent to the United States Patent Office via facsimile (303-872-9306) on May 24, 2005.


JANICE R. KUEHN